IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPEAL NO. 509 OF 2000

Louis Paulo Furtado ..... Appellant.

versus

The State of Maharashtra ..... Respondents.

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Shri A.D.Kango advocate for the appellant -appointed.
Mrs. U.V.Kejariwal APP for the State.

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CORAM ; V.G.PALSHIKAR &
ANOOP V. MOHTA, JJ.

DATED; 14TH OCTOBER, 2004.

ORAL JUDGMENT (Per Palshikar, J.);

1. Being aggrieved by the the order of conviction passed by the Additional Sessions Judge, Greater Bombay in Sessions Case No.487 of 1998 under sections 302, 307, 392, 394 and 397 of IPC on 30/31-3-2000 the appellant has preferred this appeal on the grounds mentioned in the memo of appeal as also orally canvassed before us.

2. With the assistance of the learned counsel for the accused and the learned Prosecutor, we have scrutinised the records of the case and re-appreciated the evidence on record.

3. The prosecution case as emerges from our reappreciation of evidence stated briefly is that on 8th February 1998 the accused assaulted the mother of P.w.1 and when she entered the kitchen she saw her mother falling to the ground and the accused was standing there with a knife in his hand. When the complainant went to help her mother the accused assaulted her also. Thereafter she was informed the incident to her brother and the matter was reported to police. On completion of investigation, the accused was charged for having committed murder and other offences in relation to the incident of 8-2-1998. The prosecution examined as many as 17 wittiness to prove its case and the learned trial Judge on appreciation of the evidence of these persons, came to the conclusion of guilt and convicted the accused as aforesaid.

4. P.w.1 is the complainant, daughter of the deceased who on 8-2-1998 entered the kitchen to see the victim falling to the ground and the accused standing there with a knife in his hand. When she sought to render help to her mother she states that she was also assaulted. She informed about the incident to her brother, telling him that her mother was murdered and she was also injured by the accused. Thereupon

neighbouring doctor, Dr. Parulekar came and found the victim dead. She has proved the FIR which she has lodged. She has been cross examined and she identified the clothes belonging to her and her mother and has given a detailed description of the assault by the accused on her mother. P.w.2 is inconsequential as he only identified certain articles involved in the crime.

5. P.w.3 is Dr. Parulekar who came on the scene of offence immediately and he was told that the assault on the victim was by the accused. P.w.4 is the panch witness who has proved the panchanama of the spot. P.w.5 is the person who has deposed before the court that the knife which he identified in court was stolen from the shop. Beyond identifying the weapon, therefore, there is no importance to the evidence of this witness. P.w.6 is a panch to the panchanama of recovery of blood stained clothes from the place pointing out by the accused at the instance of the accused. He thus proved the recovery of blood stained clothes at the instance of the accused.

6. P.w.7 is another panch witness, who proves the recovery of the weapon of assault at the instance of the accused and identified the same in the court. It will thus be seen that there are two important

recoveries at the instance of the accused, one of the weapon of the assault and the other the blood stained clothes of the accused. Then we have the evidence of P.w.8 to prove that the ear rings were recovered from the accused along with his blood stained slippers. He therefore proves the link in the chain of circumstances. P.ws. 9 and 10 are inconsequential. P.w.11 is the doctor who performed the post-martum and proved the post martum report to prove that the victim met with homicidal death. P.w.12 is the doctor who describes the injuries on the victim and its gravity. P.w.12 also deposes that such injuries can be caused by a knife, Article "K". P.w.13 is the witness who identifies the suit case belonging to the accused and she has identified that suit case in the court.

7. The evidence of P.w.14 is very important, who is the finger print expert, who has deposed that prints of the fingers of the accused were found at the scene of offence. He thus proves one more link in the chain of circumstances existing against the accused. P.w.16 is the investigating officer who details how he conducted the investigation and P.w.17 fully supports him in the same.

8. It will be seen from the above evidence that the following circumstances are proved by the prosecution.

1) Presence of the accused in the house of victim with blood stained knife in his hand and witness P.w.1 seeing the victim falling down to the floor.

2) She speaks of accused running away.

3) Then there is immediate disclosure of the assault at the instance of the accused by P.w.1 to her brother and the doctor and the witness P.w.1 has corroborated on this aspect by Dr. Parulekar.

4) Recovery of blood stained clothes at the instance of the accused.

5) Recovery of blood stained knife at the instance of the accused.

6) Recovery of suit case belonging to the accused, duly identified by the witness.

7) Recovery of finger prints at the scene of offence and statement of the finger print expert that those prints belong to the accused.

9. These circumstances duly proves from the deposition of various witnesses as stated above, the complete chain of circumstantial evidence on which the conviction is rested by the trial Judge. We have considered the order passed by the learned trial Judge and we affirm all the findings recorded by him. We need not give our independent reasons for affirming these reasons as we came to the same conclusion broadly on appreciation of the evidence and circumstantial evidence as noted above.

10. In the result, therefore, the appeal fails and it is dismissed.

11. The fees quantified to the learned advocate appointed and the learned prosecutor is Rs. 1000/- for this appeal.

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